

VZCZCXRO7798
RR RUEHPA
DE RUEHBP #0551/01 2301628
ZNY CCCCC ZZH
R 181628Z AUG 09 ZDK
FM AMEMBASSY BAMAKO
TO RUEHC/SECSTATE WASHDC 0655
INFO RUEHZK/ECOWAS COLLECTIVE
RUEAIIA/CIA WASHDC

C O N F I D E N T I A L SECTION 01 OF 03 BAMAKO 000551

SIPDIS

E.O. 12958: DECL: 01/13/2019

TAGS: [PGOV](#) [PHUM](#) [ML](#)

SUBJECT: MALI APPROVES NEW FAMILY CODE: ISLAMISTS UPSET

BAMAKO 00000551 001.2 OF 003

Classified By: Political Officer Peter Newman, Embassy Bamako,
for reasons 1.4 (b) and (d).

1.(SBU) Summary: On Monday, August 3, the Malian National Assembly approved a new Family Code by an overwhelming margin. The comprehensive set of laws governs everything from name changes to inheritance and women's rights, and has its roots in an Embassy Democracy and Human Rights Fund (DHRF) research project from 1994. Hailed by progressives and womens' rights organizations as a huge step forward, the Code has been harshly criticized by Mali's Muslim leaders for displacing Islamic norms. The Family Code still needs to be signed by President Amadou Toumani Toure (ATT) before it officially becomes law. End Summary.

Over 1,000 articles in 10 books

¶2. (SBU) On Monday, August 3, the Malian National Assembly approved the new "Code of Persons and of the Family," referred to more commonly as the Family Code. Following vigorous debate that lasted throughout the day and into the evening, 10 out of 11 legislative committees recommended passage of the Code, and the final vote was an overwhelming 117 in favor, five against, and four abstaining. The comprehensive bill contains 1,143 articles in 10 books, and governs subjects ranging from name changes to inheritance and marriage.

¶3. (SBU) The Code represents the first revision of Mali's Family Law since 1962, and has its roots in an Embassy-supported research project started in collaboration with a local NGO. In 1994, the Embassy provided a Democracy and Human Rights Fund (DHRF) grant of \$39,500 to the Association of Women Malian Jurists (AJM) to support the work of one of its subcommittees, the Group for Judicial Reform (GAREJ). The grant was to further GAREJ's study of "the situation of women and the family in Malian law" with an eye toward revision of Mali's antiquated laws on the subject. The Embassy's support for GAREJ continued into 1995, and AJM continued to push for greater visibility of the issue, until eventually the government created a working group to study the subject in the early 2000s.

Mostly Ho-Hum

¶4. (SBU) Most of the provisions of the Family Code are non-controversial, and were necessary simply to bring Mali's 1962 Family Code up to date or to fill a legislative gap in the law that had become apparent over time. Examples of such provisions include new definitions of residence and domicile, new procedures and regulations for names and name changes, and changes to the residence requirements for immigrants seeking naturalization.

But Some Controversy

¶5. (SBU) On the other hand, several provisions of the Family Code represent significant departures from Malian practice, and can be understood as an effort by the Government to move Malian society in the direction of certain prevailing international norms. The Government itself argued that certain changes were required to ensure Mali met its international obligations under a number of human rights treaties that Mali has ratified. Critics contend, however, that the Government has sold out to international aid donors. Indeed, even supporters of the Family Code tend to admit that certain Western powers, particularly the Europeans, placed great pressure upon the Government to include certain reforms within the Family Code. Others argue the Government was primarily motivated by an inferiority complex, desperate to show the West that Mali was "modern."

¶6. (SBU) The most controversial provisions in the Family Code are those expanding the legal rights of women, and altering inheritance law. For example, the Family Code makes illegal marriage to a bride younger than 18 years old. While the Government argues that this is required by Mali's adhesion to and ratification of the Protocol of Maputo, Islamic critics point out that 60% of Malian marriages involve women under the age of 18, thus making the Family Code's ban flatly inconsistent with Malian cultural norms. Similarly, although 90% of Malians rely solely on traditional religious marriage ceremonies before Imams, the Family Code does not recognize solely religious marriages, because marriage is defined as a secular affair that can only be officially valid if a civil ceremony is completed at City

BAMAKO 00000551 002.2 OF 003

Hall. Both National Assembly Deputy Mountaga Tall and the President of the High Council of Islam, Imam Mahmoud Dicko, highlight the absence of recognition for religious marriage ceremonies as a major bone of contention in the Family Code, albeit also a potential source of compromise.

¶7. (SBU) The Family Code expands the legal rights of women in numerous respects. First, in defining the obligations of a couple in marriage, the Family Code repeals the prior Malian law that a woman owed "obedience" to her husband. Instead, the Family Code instructs both husband and wife owe the other "mutual respect." Second, the Family Code fundamentally alters the law of intestate succession. Whereas previously inheritance rights were based on the cultural norms of the deceased (e.g., Islamic law), now inheritance rights are those specified in the secular Family Code, unless the deceased specifically opts for inheritance based on Islamic law in his Will or Testament. Under the Family Code's inheritance scheme, the share of the estate received by brothers of the deceased is greatly reduced as compared to Islamic Law, and the share to the surviving spouse and children is increased. Significantly, the Family Code entitles illegitimate children to share in the estate with children born in wedlock.

Progressives versus Imams

¶8. (SBU) While passage of the Code was greeted as a tremendous advance by womens' organizations, it was a source of consternation for Islamic leaders. The President of the High Council of Islam, Imam Mahmoud Dicko, met with a large group of Muslim faithful at the Grand Mosque of Bamako on Sunday, August 9. Dicko denounced the Family Code, insisting the National Assembly had "betrayed" the Malian people, and that Muslims would defend their religion "to their last breath. Dicko made it very clear to his listeners that he was not advocating the use of violence, but rather resistance

and struggle through peaceful means. Dicko gave Malian President ATT an ultimatum, saying he had ten days to consider the amendments to the Family Code presented by the High Council of Islam (HCI). Dicko did not specify what actions the HCI would take upon expiration of the ten days.

¶9. (SBU) On Saturday, August 15, religious leaders led a protest march from Bamako's Place de l'Independence to the Peace Monument approximately half a mile away. Attendance has been estimated at around 10,000 persons, including large numbers of women dressed in black burkas. Although the speakers, including Modibo Sangare of Mali's only overtly Islamic political party, the Patriotic Union for Renewal, railed against the National Assembly and denounced the "Satanic" law, the march was peaceful and the speakers urged the demonstrators not to resort to physical violence.

¶10. (C) At a meeting with the Embassy on August 11, Imam Dicko had emphasized that he did not advocate violence. He emphatically maintained that "ours is not an Islam of suicide bombers." Dicko did, however, say his group was opposed to the negative "secularism" that the Government had adopted in the name of modernity, and insisted equally that the Family Code would radicalize Muslims and alienate them from their Government. In a meeting with the Embassy on August 12, Inspector General of Police and Deputy Secretary General at the Ministry of Justice MaGloire Keita indicated his Ministry was "concerned" about reprisals against the Government from angry Muslims.

¶11. (C) By contrast, the President of an Association of Women's NGOs, Oumou Toure, told the Embassy on August 11 that the Family Code was not at all inconsistent with Malian culture. Rather, Toure believed opposition to the code was caused by misinformation concerning its provisions. Toure insisted Malian culture was flexible and told the Embassy that the next step for her organization was to engage in grassroots efforts to educate and inform Malians about the contents of the code. When asked by PolOff if the code would succeed in altering Malian conditions or cultural norms, Toure replied that women in difficulty already come to her organizations for help. The important thing, according to Toure, is that when those women come to her organization, there will now be a law on the books that will provide them with a means of assistance.

Comment: Common Ground

¶12. (C) Interestingly, both Imam Dicko and Oumou Toure made a similar point in their respective meetings with the

BAMAKO 00000551 003.2 OF 003

Embassy. Toure, trying to show that Malian culture was not inconsistent with the Family Code, stated that Malian society already embraces women in positions of power, including having female Ministers of Government. Imam Dicko, repeatedly insisting he was no Taliban, pointed out that both of his daughters are studying at the university, and that he supported this wholeheartedly. Although attempting to prove different points, Toure and Dicko inadvertently demonstrated that there is not as much divergence in their positions as appears at first blush. While certain semantic clauses in the Family Code may appear flatly inconsistent with Islamic Law to the Imams in the HCI, resistance to the law may subside once it becomes plain that family life in Mali will not be fundamentally changed by the Family Code. Furthermore, while many of the most vocal Muslim leaders were opposed to the code, there were also Muslim leaders consulted by the government who did not oppose the code. At the same time, the benefits of the code are likely to be, not in the form of a revolution, but, as Toure indicated, in the form of individual women finding recourse in the law where none existed before.

¶13. (C) Comment continued: When next the Department makes a call for success stories documenting the utility of the Democracy and Human Rights Fund, we stand ready to cite the example of early support for this initiative. It should be noted that it took some 15 years to come to fruition. Post recommends that the Department encourage other missions to look back into their files and/or the memories of their locally-employed staff, as Embassy Bamako has done. End Comment.

MILOVANOVIC